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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH, NAGPUR

**Writ Petition No.4667 of 2004**

Yogesh Namdeorao Gonnade,  
Aged 37 years,  
occ. Service as a Teacher (Also  
elected Corporator from Prabhag No.3)  
Resident of Plot No.18, Milind Society,  
Narendra Nagar, Nagpur ....Petitioner.

Versus

- 1] State of Maharashtra through its  
Secretary, General Administration  
Department, Mantralaya,  
Mumbai- 400 032.
- 2] Scheduled Tribe Caste Certificate  
Scrutiny Committee, Nagpur,  
Adivasi Vikas Bhavan, Giripeth,  
Nagpur, through its Dy.  
Director (R) and Member-Secretary.
- 3] Collector, Nagpur.
- 4] Municipal Commissioner, Nagpur  
Municipal Corporation, Nagpur.
- 5] State Election Commission,  
New Administrative Building,  
Opp.Mantralaya, Madam Cama Road,  
Mumbai- 400 032.
- 6] Secretary, School Committee,  
Somalwar High School,  
Ramdaspath, Nagpur- 440 010.. Respondents

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Mr. R. S. Parsodkar, Advocate for petitioner.  
Mr. P.D. Kothari, AGP for respondent no.1.  
Mr. S.M. Puranik, Advocate for respondent no.2.

Mr. J. B. Jaiswal, Advocate for respondent no.3.  
Mr. M. V.Samarth, Advocate for respondent no.4.  
Mr. Pradeep Marpakwar, Advocate for respondent no.5.  
Mr. P. K. Halwe, Advocate for respondent no.6.  
Mr. S. P. Bhandarkar, Advocate for Intervenor.

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**CORAM : B. R. GAVAI &  
Z.A. Haq, JJ**

**DATE : 11<sup>th</sup> October, 2013.**

**ORAL JUDGMENT** : (Per Z.A. Haq, J.) :

1] Heard the learned Advocates for the respective parties.

2] The petitioner has challenged the decision of the Scrutiny Committee invalidating the caste certificate of the petitioner certifying that the petitioner belongs to "Halba" scheduled tribe. The petitioner has stated that he belongs to "Halba" scheduled tribe and he contested the election of Nagpur Municipal Corporation in March/April 2002 from the seat reserved for scheduled tribe candidate and was declared elected. The petitioner has submitted that after declaration of the results of the election in April 2003 the caste certificate of the petitioner was submitted to the Scrutiny Committee for verification. The petitioner has stated that the Scrutiny Committee by the impugned order

has invalidated the caste certificate of the petitioner without considering the documents on record and, therefore, the impugned order of the Scrutiny Committee is unsustainable in law.

3] Mr. Parsodkar, learned Advocate for the petitioner, has submitted that in support of his claim, the petitioner has filed several documents out of which the following documents could not have been overlooked by the Scrutiny Committee:-

- (i) Xerox copy of Primary School Leaving Certificate of the petitioner's father (dated 1.4.1945);
- (ii) Xerox copy of Primary School Leaving Certificate of Pandurang Rama (grand-father of the petitioner)(dated 1.3.1908).
- (iii) Xerox copy of Primary School Leaving Certificate of Rama Kukasu -great grand-father of the petitioner (dated 31.1.1884).

4] Mr. Parsodkar, learned Advocate for the petitioner, has submitted that the above referred documents incorporate an entry showing that these persons belong to "Halba". The learned Advocate has submitted that these

documents are of pre-constitution era and the as per law laid down by the Hon'ble Supreme Court in the case of **Anand V/s. Committee for Scrutiny and Verification of Tribe Claims and others** reported in **2011(6) Mh.L.J.919**, these documents have greater degree of evidentiary value and the Scrutiny Committee has committed illegality in invalidating the caste claim of the petitioner.

5] Mr. Puranik, learned Advocate for respondent no.2 - Scrutiny Committee opposed the claim made by the petitioner. The Scrutiny Committee in its reply has stated that Vigilance Cell officials had visited the Zilla Parishad Primary Basic School, Nagbhid, where the father of the petitioner studied and has inquired with the Head Master of the school, who has given a remark that there is overwriting in admission register and in school admission register extract of 5<sup>th</sup> standard, the page is burnt and smudged with ink. The Scrutiny Committee has stated that the Vigilance Cell has made inquiry about documents of the years 1908 and 1884. The Scrutiny Committee has stated that the Head Master of the Zilla Parishad Primary Basic School, Nagbhid has given remark that the entry at Sr. No. 566 is scored out and overwritten and entry at Sr. No. 1454 refers to

Pandurang but there is no mention of father's name and caste and, therefore, two documents submitted by the petitioner are doubtful.

6] We had directed the learned Advocate for the Scrutiny Committee to make the original record containing entries of 1884 and 1908 available at the time of hearing. We have examined original record. On perusal of the original register produced by learned Advocate for the Scrutiny Committee, we find that there is neither any interpolation nor overwriting as far as the entry of 1884 is concerned. The entry of 1884 is in respect of Rama Kukasu, great grandfather of the petitioner and the caste is recorded as "Halba".

7] The Hon'ble Supreme Court in case of **Anand V/s. Committee for Scrutiny and Verification of Tribe Claims and others** (supra) has laid down that while dealing with documentary evidence, greater reliance should be placed on pre-Independence documents because they furnish a higher degree of probative value to the declaration of status of a caste, as compared to post-Independence documents. It is further laid down that if there is doubt on

the credibility of the document, its veracity has to be tested on the basis of oral evidence, for which an opportunity has to be afforded to the applicant. In the present case, the Scrutiny Committee has neither doubted the entries in the pre-constitution documents relied upon by the petitioner nor it is the case of the Scrutiny Committee that the documents are not genuine or are fabricated.

8] The Scrutiny Committee has not denied the relationship of the petitioner with Pandurang Rama and Rama Kukasu as shown in the geneological tree at page no.103 of the writ petition. The Scrutiny Committee has formed its opinion on its own that the entry in the original register is doubtful. It is not the case of the Scrutiny Committee that they had referred the original register to the Expert and obtained its opinion. We have examined original record and we find that the entry in the register cannot be said to be doubtful.

9] In view of the above, the writ petition is to be allowed. We pass the following order:-

(i) Rule is made absolute in terms of prayer clause (A) and

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(B).

(ii) The Scrutiny Committee is directed to issue caste validity certificate to the petitioner certifying that the petitioner belongs to "Halba" scheduled tribe, within four weeks.

(iii) In the circumstances, the parties to bear their own costs.

**JUDGE**

Ambulkar

**JUDGE**